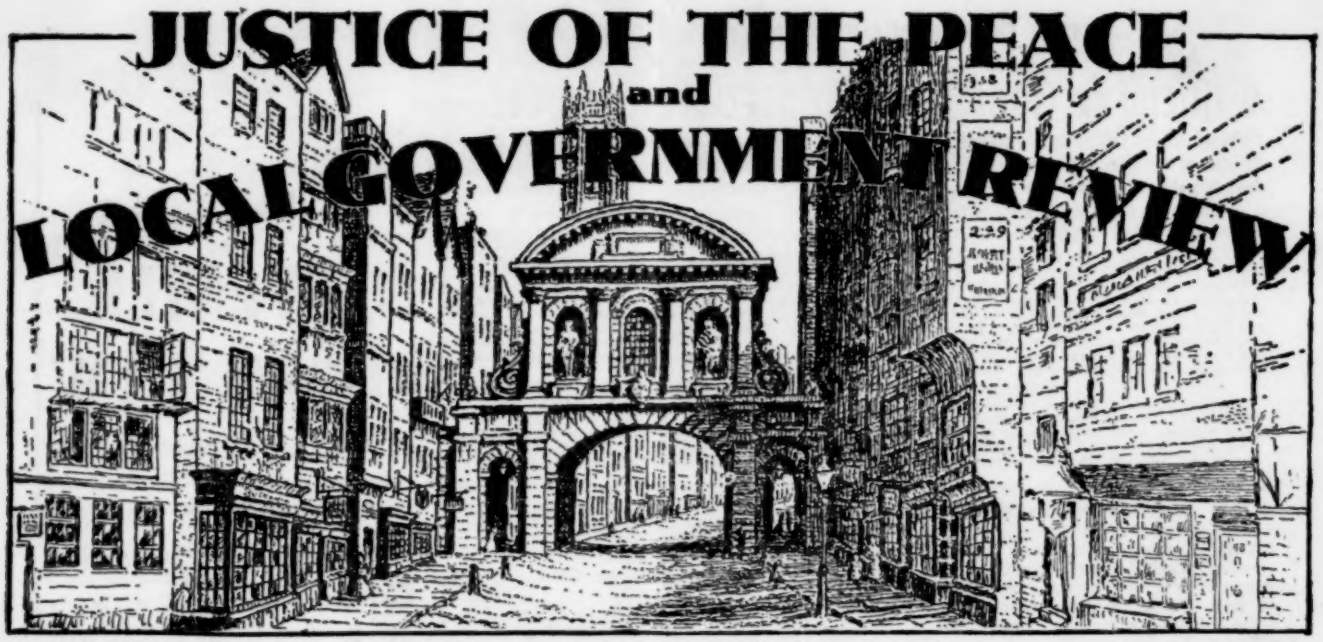

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Official & Classified Advertisements, etc.

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

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F. TOMLINSON,
Clerk of the Council.

The Castle,
Whitstable.

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Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

"In Charge" of a Car

There have been several Scottish decisions, as well as some English, on the meaning of the words "in charge" in s. 15 of the Road Traffic Act, 1930. The latest is the Scottish case of *Winter* v. *Morrison* [1954] J.C. 7. (H.C. of Justiciary). The facts alleged were that the owner of a car was found by the police seated in the front passenger seat of the car, under the influence of drink. His wife was seated in the driving seat and had started the engine. The wife's provisional licence had expired. The owner was charged with an offence against s. 15. It was held that he was not guilty, he not being in charge of the car.

As the wife had taken charge of the car to the extent of sitting in the driving seat and starting the engine, in the presence, and presumably with the consent, of her husband, it seems perfectly reasonable to hold that the husband was not in charge of the car, even if he had previously been in charge of it and had driven it. He could transfer the charge of it to his wife, and thus relieve himself of charge. The fact that the wife's licence had expired does not appear to affect the question of being in charge, though it might render her liable to prosecution.

It will be remembered that in *Haines* v. *Roberts* [1953] 1 All E.R. 344; 117 J.P. 123, it was held that a driver remains in charge of a motor vehicle until he puts it into the charge of somebody else. Such a transfer of the charge of a car may well have taken place in the recent Scottish case.

The Press and Homosexual Offences

It seems generally accepted that homosexual offences are on the increase. The press constantly reports prosecutions of male persons for acts of gross indecency, and reports of chief constables often refer to an increase in this type of offence.

In some quarters it is considered that the publicity given to this kind of offence, and the freedom with which it is discussed, have a bad effect and are a contributing factor to the growth of this evil. What is the duty of the press in this respect is a matter of opinion, and opinions certainly differ.

Mr. Raglan Somerset, Q.C., Recorder of Gloucester, at the recent quarter sessions, made some observations on this matter which are worth thinking about. According to the *Western Daily Press* the Recorder said he realized the press was in a dilemma over the reporting of such cases. If it did not report them it might be accused of shielding people in a high position. If it did, there was the danger of intensifying such offences. In one of the cases, a man who had previously appeared before him for one of these offences was sought out by another accused, solely as a result of the publicity given to his conviction.

The Recorder also mentioned a case at Monmouth Assize when it was stated that twelve borstal boys had taken to the practice as a result of the publicity given to such cases. He thought the least publicity such offences received the better. The press was in a very unpleasant dilemma.

We do not think the question could be dealt with more fairly, and we agree that there can be too much publicity. It is right that such cases should be reported, but in our opinion there should not be too much detail about the facts.

"Qualified" Specialist

To be a "qualified" specialist in a magistrates' court, that is, a clerk with the qualification of a solicitor, it is necessary to pass the examinations of the Law Society. A correspondent, having just sat for the June Final Examination, has brought to our notice the papers which he had to take.

1st day	(*a*) Real Property. (*b*) Contract and Tort.
2nd day	(*a*) Succession, Probate and Equity. (*b*) Income Tax, Estate Duty and Stamp Duties.
3rd day	(*a*) Company Law and Partnership. (*b*) Magisterial Law and Procedure, Licensing, etc.
4th day	Sales of Goods, Insurance, Hire Purchase, Master and Servant, Industrial Injuries, etc., etc.

These are the papers, states our correspondent, that a magisterial assistant usually takes. Section (*b*) of the third day and the paper for the fourth day are optional, there being a choice between those shown and papers on conflict of laws, divorce, etc., and local government, and others of a specialized nature.

It appears to our correspondent somewhat surprising to find that the papers do not include criminal law or evidence, and it would certainly seem that the inclusion of a paper on criminal law and evidence would be more beneficial both to the magisterial assistant and to the "profession" of justices' clerks. Furthermore, whilst it would not be desirable for solicitors to be graded, it might, our correspondent suggests, be possible for the examining body of the Law Society to devise examinations, from the whole body of the law, which would distinguish between the functions which aspiring solicitors are seeking to play in the legal profession. For example, private practice, magistrates'

courts, company law and secretaryship, local government, etc. As for magistrates' courts, our correspondent suggests:

1st day	(*a*) Contract and Tort. (*b*) Criminal Law and Procedure.
2nd day	(*a*) Matrimonal Law and Procedure. (*b*) Evidence.
3rd day	(*a*) Licensing of Public Houses and Public Places. (*c*) Juvenile Courts and Adoption.
4th day	Magisterial Law and Procedure.

We have little doubt that there must be very many magisterial assistants who are deterred from taking the Law Society's examinations because of the nature of the existing syllabus. This perhaps gives rise to the shortage of " qualified " specialists in magistrates' courts and we think it worth while to print this note in the hope that it may promote discussion among those who are interested in the question.

Open Prisons

The Reverend Martin Pinker, who, as general secretary of the National Association of Discharged Prisoners' Aid Societies, knows more about prisoners and ex-prisoners than most people, is reported as saying that ninety *per cent.* of the women discharged from the open prison Askham Bryan never return. We do not know how long the prison has been in existence, but if it is the fact that the statement refers to a period of some years, the record is remarkable and encouraging. Mr. Pinker was addressing the annual meeting of the Hull and East Riding Discharged Prisoners' Aid Society.

Open prisons come in for a certain amount of criticism. When a prisoner absconds there is likely to be an outcry, especially if, as so often happens, the prisoner commits further offences in order to obtain food and clothing. It is said that the public is not being properly protected from criminals and that prison is made too comfortable as well as insecure. That is not unnatural, and there is some ground for alarm if it is known that an escaped prisoner is at large in a lonely district. The public would take more kindly to the idea of open prisons if it was more widely known that escapes are in fact few and far between, and that there is a careful selection of prisoners for these open prisons. If a mistake is made and the wrong type of prisoner is sent to an open prison, with the result that there is an escape followed by publicity, that is most unfortunate, as it is likely to bring the whole system into temporary discredit. Obviously the authorities cannot afford such mistakes.

As a matter of fact, we believe the open prison is amply justifying itself. As Mr. Pinker said, there is a great deal of nonsense talked about prisons, and, as he said also, there are prisoners for whom only maximum security conditions are suitable. That type of prison must always exist, together with the prisons in which there is more freedom including, for the best of the prisoners, the open prison.

Crime in Ceylon

Sir Sydney Smith, Regius Professor of Forensic Medicine, Edinburgh University, has recently returned from Ceylon where he went at the invitation of the World Health Organization to advise on steps which might be taken to combat the increase of serious crime in the island and an account of his experience in this connexion is given in a recent issue of the *Scotsman*. In 1952, with a population of some eight millions, there were 411 cases of murder and 1,996 cases of attempted murder before the courts. Last year the numbers increased to 429 and 2,262 respectively. This average of just over fifty murders for each million people compares with Britain's proportion of three per million. Serious assaults in 1952 were at the rate of 62·2 per 100,000 people against 53·3 per 100,000 in the United States. In his report to the Government, Sir Sydney emphasized that the best deterrent to crime is the knowledge that detection will be certain and that punishment will quickly follow. He found there was considerable lack of co-operation between the various authorities concerned and, for instance, that out of 411 homicides in Ceylon in 1952, the central C.I.D. in Colombo only helped the provincial police in twenty cases. Medical officers, without special training in medico-legal work, or even in pathology carry out post-mortem examinations in addition to their normal duties, and little use is made of the Colombo University's Forensic Medicine Department with its qualified staff and well-equipped laboratories. His investigations showed, however, that the proportion of premeditated serious crime in the island was small. Most of the murders and attempted murders appeared to be crimes of sudden passion arising from quarrels over land, money or women. In his report he has made suggestions as to how medico-legal work should be done.

Reporting to the N.S.P.C.C.

To report one's neighbours to some kind of authority, with the possible consequence of warning or prosecution, is a step most people are reluctant to take. They have a dislike of what looks like tale-bearing, and at the back of their minds they may have a fear of being brought to court as witnesses against those with whom they have been on neighbourly terms. In spite of this, there are not many who would not be so moved with indignation by gross cruelty or violence towards a child as to report the matter to the police or some other body in order to protect the child from further ill-usage.

Speaking at the annual meeting of a branch of the National Society for the Prevention of Cruelty to Children, the branch secretary appealed to members of the public to report early any information, or even rumour, about neglect of children. The idea, obviously, is to deal promptly and effectively with a case before it has gone far, and thus to avoid the need for prosecution, for it is the policy of the Society to regard prosecution as the last resort, and to adopt remedial methods by giving advice and help wherever necessary. Nevertheless, people will naturally feel some hesitation about reporting rumours or slender information, because of the possible consequences to themselves if their information should turn out to be unfounded. Doubtless the officers of the Society would decline to divulge the source of a complaint unless it became necessary in connexion with court proceedings, and would give a suitable assurance to anyone whom they thought able to furnish information. They can also be trusted to be on the look-out for the possibility that an unfounded complaint might be made out of spite, though we do not suppose that often happens.

Tidying Up

At mattins, a few Sundays ago, the vicar of a West-country parish asked for a few volunteers to come along one evening, bringing shears if possible, to cut the grass in the churchyard. " I think ," he said, " three or four of us could do it in an hour and a half or so." It is to be noted that he said " us " and not " you " and we have little doubt that volunteers were forthcoming. The churchyard, by the way, had evidently not been long neglected, like some in which rank grass grows knee-high.

Keeping the churchyard tidy is work for the church which some can do who do not feel qualified for other forms of service,

and we are glad to find the clergy anxious to see that their churchyards are kept from looking neglected and unsightly. It is not exactly the same problem as that of litter, but it is akin to it. Indeed, we have known of appeals from the pulpit to children not to throw down orange peel in the streets so as to cause danger as well as untidiness, and we think that in this way the churches, as well as the schools, can and do help.

Talking of litter, the following is to be seen on the litter bins at a seaside resort :

> " You can go where you will without fear,
> But there's one thing we wish to make clear,
> Be you walker or sitter
> We object to your litter,
> Take it home or put it in here."

What a pity we have to add that on a seat, actually touching the litter basket, there were two empty ice-cream cartons ! However there was, on the whole, evidence that the appeal had not been without effect, and the amount of litter was not large.

Compliment

It cannot often have happened that a judgment of the Court of Appeal has turned upon close analysis by all three members of one passage in a modern text book by a practising member of the bar. This occurred in *Cove* v. *Flick* [1954] 2 All E.R. 44. The text book was Mr. Megarry's *Rent Acts*, and it is pleasing to remember that our own reviewer of early editions of that work drew attention to its merits. The point of *Cove* v. *Flick* was not unlike some with which we have been called upon to deal. When the tenancy was granted the tenant had informed the landlord that he wanted the house for his aged parents and his sister and himself ; that he was becoming the actual tenant because his father was too ill for business, but that his father would in fact still be head of the household. Apparently he lived there with them for eleven years and then went to live elsewhere. When the landlord sought possession, the tenant contended that it was a term in the agreement that he might occupy by proxy, and *Wabe* v. *Taylor* [1952] 2 All E.R. 420 was cited as showing that the tenant could in such circumstances hold the premises (by and for the benefit of an agent) against the landlord's wishes. That decision was, however, distinguished as having been given upon special facts, and Somervell, L.J., then referred to Mr. Megarry's approval of two county court cases in which a tenant had been held protected when not himself in personal and physical occupation of the house. The result was that the Court of Appeal did not agree with Mr. Megarry upon the merits of the county court decisions, and took their stand upon the principle that protected occupation must be personal. In the course of doing so they noticed that in his seventh edition Mr. Megarry had left out the word " perhaps " in his statement of the merits, and suggested that he should put it back. The judges are more ready than they used to be to refer by name to text books, and to adopt as their own a statement made by *Stone* or *Lumley*. It looks as if Megarry's *Rent Acts* is also on the way to achieving the status of a jurisconsult.

Income Tax and Politics

There is a Gilbertian quality about " Mr. Cube's " victory in the House of Lords, and upon reflexion some of those who politically benefited from his activities may be wondering whether they should be crying : " Save us from our friends." Indeed, it was a curiosity of public life, and at the same time a tribute to the English respect for the rule of law, that the case for the Revenue fell to be conducted by the Law Officers in the very Government that " Mr. Cube " had worked to put in power. Shortly stated without technicality, the point to be decided was whether the admitted principle, that for the purpose of ascertaining his taxable income a taxpayer can properly deduct from his gross income money spent in protection of his trade, extends to preventing somebody else from taking over his interest in that trade. It is easy to allow Mr. Bung to advertise that " Beer is best " ; so long as he wages war on soft drinks or on spirits, or even upon Pussyfoot as an ideologist. The money is clearly a commercial outgoing, not less than money spent on urging people to wash their hands or eat potatoes. We suppose the Inland Revenue would also allow as a trade expense money devoted to the current press campaigns for removing the stigma upon margarine, making more food available to pigs, or lowering the tax on petrol. But suppose Pussyfoot to become Prime Minister as the result of an election in which his party proposed legislation for abolishing all breweries, or nationalizing them ; *ex hypothesi* a majority of the taxpayers then favour this proposal, and yet Mr. Bung can, as the law stands, throw on the taxpayers at large a big share of the cost of resisting the proposals for which a majority have voted. We are not saying this is wrong. Each hypothetical case shades off into the next, and it is hard to draw the line. What seems so strange from a jurist's point of view is that the issue had to be argued upon the interpretation of a few words in a taxing statute, not designed by Parliament to deal with any issue of the kind. If a line can be drawn between " trade " and " political " outgoings this should be done deliberately, and by Parliament, in terms that leave no scope for costly litigation which (again) will in part be paid for directly or indirectly by taxpayers who are out of sympathy with the purpose of the outgoings.

Art For What Sake ?

When speaking at p. 368, *ante*, of public bodies as patrons of the plastic and pictorial arts, we had no notion of joining the controversy which raged around rejection of Mr. Moore's *Draped Torso* by the city councils of Manchester and Bristol. This piece of sculpture, for which one of our correspondents suggests the irreverent *alias* of *Stuffed Shirt*, has now (it seems) been bought by a private person, so that the citizens of Manchester and Bristol will not have (according to their point of view) either the chagrin or the satisfaction of knowing that some other local authority's constituents are to have the benefit, or penance, of looking at it whenever visiting the local art gallery. On the subject of its rejection, the newspapers reflect violent difference of opinion in the cities named, and a B.B.C. art critic has been savage. We have no opinion, either way, about the merit of the work. We do not forget that statuary by Sir Jacob Epstein, placed on a building in the Strand some forty years ago, provoked an outpouring of protest upon allegedly moral as well as aesthetic grounds ; that the large squarish nudities on the London Transport office at St. James's Park produced another if less violent outbreak when they were erected—and that both sets of statuary are today considered so old-fashioned that they are passed unnoticed by everyone except the experts. It looks as if those spending public money can take some risks safely ; indeed they must, if art is not to stagnate in the hands of imitators of what has gone before. On the other hand, it does seem arguable whether an elected local authority can properly fly in the face of a substantial body of hostility in its own area. That face may be unenlightened, but the man who pays the piper has some claim to call the tune. It is said that the great mass of the local public is indifferent, and that opposition to novelty comes from a minority. This may be true, but it is equally true that at any given moment no more than a minority would willingly pay for some of the modern works most admired by the critics.

THE PROBATION SERVICE IN TRANSITION

[CONTRIBUTED]

Now that probation is an accepted element in our judicial system, it is easy to forget its comparatively recent origin. Although the first London police court missionary was appointed in 1876, it was not until 1907 that the Probation of Offenders Act gave statutory recognition to the appointment of probation officers. And it was only as recently as 1925 that the Criminal Justice Act of that year made the appointment of probation officers compulsory.

Initially of voluntary, religious origin, the probation service has in this short time grown into a nation-wide public service. It was inevitable that the probation officer himself would be affected by this rapid development. In the beginning, his was a religious vocation ; he served a religious organization and was in every sense a missionary. Today, he has become the paid employee of the secular state.

Apart from this, in the early days probation was a relatively simple conception. Friendship, advice and financial help was usually as far as it went. The growth of the welfare state, however, has seen the development of a wide variety of statutory and voluntary social services with which the probation officer must be familiar. In addition, the development of advanced case-work techniques derived from the new social sciences makes different and larger demands upon him. It should further be realized that his responsibilities—particularly in after-care and matrimonial work—have been progressively extended.

In the realization of all this, much thought has been given to the qualities desirable in the modern probation officer. The subject was first officially considered in the Report of the Departmental Committee on the Probation of Offenders Act (cmd. 5001) published in 1909. It stated that the probation officer must be endowed "not only with intelligence and zeal but, in a high degree, with sympathy, tact and firmness." In 1922, the Report of the Departmental Committee on the Training, Appointment and Payment of Probation Officers (cmd. 1601) emphasized the need for men and women with a high sense of vocation and this has been echoed many times since then.

The fullest discussion of desirable qualities for probation officers appears in the United Nations Survey " Probation and Related Measures " (1951). The array of attributes is formidable. Adequate intellectual endowment, maturity, emotional stability and personal integrity head the list, followed by dependability, sincerity, respect for human personality, humour, tolerance and many other desirable qualities. The United States National Probation and Parole Association in its 1945 Report on the Standards for Selection of Probation and Parole Officers sensibly considers good health and physical vigour as important as any of these.

The current (1952) edition of the Home Office Pamphlet " The Probation Service—Its Objects and Organization " gives as the essential qualifications for applicants for the probation service, a sound education, good intelligence, a genuine interest in personal case-work and " the character and personality which will enable them to exercise the right influence on probationers and others they are called upon to help." The last requirement is important, since it involves the private life of the worker to a degree which is paralleled perhaps only by the clergy. To influence others for good, the probation officer's own life must at least be above reproach and some would say it must be such as to give a positive example to others.

It may well be asked if men and women with some or all of the requisite qualities are available in sufficient numbers to staff the probation service. It must be admitted that the staffing problem has never been easy, but many would say that this is not due to a dearth of people of the right calibre, but because the material rewards are insufficient to attract them. It certainly seems true that its missionary origin has always affected the probation service in the matter of salary. To the religious worker for whom the work was largely its own reward, the salary was a minor consideration. Today, however, the trained, professional social worker finds the present scales contrast unfavourably with what may be earned in private enterprise and with opportunities in other branches of the public service. Indeed, the young probation officer will discover that many of his charges of the same age as himself earn rather more than he.

It has been argued that the poor material prospects serve as a sieve by means of which careerists are eliminated. Only a sense of vocation, it is said, could bring in people despite the low pay, and a sense of vocation is what is chiefly required. One sometimes wonders, however, if it is ethical to exploit this vocational sense and, if it is, why it is so seldom done in other professions. Experience in other professions would seem to indicate that reasonably adequate reward raises the standard of entrant and there seems no reason why this should not operate in the probation service. On the other hand there is considerable force in the argument that it would be unwise so to raise the income of probation officers that they would lose touch and sympathy with the outlook and attitudes of those who make up the largest proportion of their clients. However, in the foreseeable future, there seems little fear of this.

Salary considerations are not the only ones which weigh with the individual who is contemplating whether or not to enter the probation service. It must be recognized that the work itself is extremely demanding. It involves close contact with poverty and squalor and acquaintance with people whose lives are sordid and depraved. Hours of work are long and evening and week-end work are the rule rather than the exception. In addition, there is that demand upon the nervous energy which is always involved in work with people who are unstable or neurotic. It may be conceded that these conditions of work attract rather than repel the best type of recruit, but they cannot be omitted from any discussion on staffing problems.

A further deterrent to recruitment lies in the necessarily high age of entry. Persons under twenty-three are not eligible for appointment as probation officers and this means that men and women have to be attracted from other occupations at an age when change is often difficult. Not only have they to be attracted, they have to be trained, and although grants are payable during this training, they are inevitably small. This places a considerable financial strain upon the new entrant, especially if he is a married man with a family. Many probation officers spend much of their capital during training.

Bound up with the problem of recruitment is the whole question of training. In the very early days, training was not an important consideration. Religious faith, courage, firmness of character were required ; the rest came with experience. As the work became more complex, however, it was realized that it was uneconomical, as well as sometimes disastrous to those in their care, for probation officers to acquire insight and

skill by trial and error. In 1937, following the recommendations of the Departmental Committee on the Social Services in Courts of Summary Jurisdiction, the Home Secretary appointed a Probation Training Board, which was to be responsible for conducting a comprehensive training scheme in England and Wales. In 1949, the functions of the Board were taken over by the Probation Advisory and Training Board. The aim of the scheme which has been developed is to provide a pool of trained probation officers from which local probation committees may select.

The training given depends upon the needs of the individual entrant. He may take a university course, leading to a diploma or certificate in social science, or, exceptionally, to a degree. Alternatively, there is a shorter course, designed for men and women with experience in social work or with other relevant experience, who might not benefit—because of age or lack of formal education—from purely academic study. All trainees have practical instruction, not only in probation but in other forms of case-work, and go into residence for a specialized course of lectures.

In the United Nations Survey "Probation and Related Measures", the comment is made that generally speaking, "the actual professional qualifications of probation officers fall far short of even the minimum standards which are recognized as desirable." It is conceded, however, that "significant progress" is being made in this country.

Because of the high cost of this training it is clearly necessary to limit the number of failures by selecting trainees carefully. The procedure used is based on recommendations by the National Institute of Industrial Psychology. It involves intelligence tests, group discussion and interview and the rejection rate is high (*e.g.*, in 1949, of the 1,277 who applied, only seventy-three actually started training).

This selection, which is made by the Probation Advisory and Training Board, provides a partial control of entry into the probation service, but it is still possible for probation officers, perhaps inexperienced and untrained, to be appointed by local probation committees from outside the training scheme. It is to be hoped that one day it will be mandatory for all entrants to the probation service to have successfully completed a Home Office training course. Perhaps eventually an academic qualification will also be thought necessary.

The National Association of Probation Officers is concerned to establish standards of professional conduct and has issued a statement on the responsibilities of the probation officer to the community and to those placed in his care. In this, however, as with recruitment, training and so much else, the probation service is in a state of transition. It is conscious and proud of its religious origin, yet at the same time it is endeavouring to absorb and make use of the new developments in psychology and sociology. While acknowledging its humble beginning, it is trying to evolve standards of professional conduct, training and status, which it has taken older professions centuries to develop. Whatever happens, however, in its evolution from a group of voluntary workers to a publicly organized professional body, it is essential that the probation service should not lose that deep regard for the individual which inspired its missionary pioneers; without that its work could have little value.

F.V.J.

VENEREAL DISEASE IN A COMMUNICABLE FORM

By P. DAVIS FORSYTH

The Matrimonial Causes Act, 1950, by s. 8 (i) (c) allows a petitioner to obtain a decree of nullity if he can show that at the time of the marriage the other spouse was suffering from venereal disease in a communicable form. He must, in addition, satisfy the court on three further points, namely that he was at the time of the marriage ignorant of the facts alleged, that the proceedings were instituted within a year of the marriage and that marital intercourse with the consent of the petitioner had not taken place since the discovery by the petitioner of the existence of the grounds of the decree. These last three are matters to be proved, in most cases, by evidence of readily ascertainable facts. They are, although important, and each capable of being a bar to the petitioner's success, ancilliary to the main problem with which he must deal.

The question whether or not the other spouse was suffering from the disease at the relevant time, which may be perhaps as long as eleven months before the petition is filed or two years before the issues are tried, is one to be decided solely by medical evidence. In this the petitioner is at a disadvantage in that the evidence will not normally be available to him, for the doctors who have examined and treated the respondent will regard their records and findings as confidential and only to be produced to the Court upon a *subpoena duces tecum*. Even when served with such a *subpoena* many doctors will consider that their duty to their patient obliges them to withhold their confidential records from the inspection of the petitioner and his advisers until directed to make them so available by a Judge.

Syphilis may be congenital or acquired. In the first class of case the disease cannot be passed on either to a partner in intercourse or to progeny and is not in any way communicable. Such is the almost unanimous opinion of medical specialists in the disease, although a small minority holds that a case may very rarely occur of a female congenital syphilitic subject infecting her unborn child. Where this happens it will probably be found that the woman, while being a congenital syphilitic subject, has also acquired the disease by contact since birth. The legal advisers of a respondent who is a congenital syphilitic subject should, therefore, carefully consider whether they should not at an early stage in the proceedings make known to the petitioner's solicitors their clients confidential medical records which will show that the disease is congenital and not acquired. The petitioner's solicitors, who must be largely in the dark, until they see such records, as to whether their client has a case at all, will then learn that he has, in fact, no case, and costs will be saved.

The second class of case renders the disease capable of being passed on, and in this connexion great importance attaches to the meaning of the words "in a communicable form" as found in the section. At a first reading it may be supposed that the word "communicable" is limited in its meaning to being communicable to the petitioner, so that if he, after acts of intercourse (which must have taken place before he became aware of the grounds for relief available to him) is found by the usual recognized analytical tests to be free from the disease, he will have no ground for relief because the infection has not been passed on to him. In a case recently heard and decided by Mr. Commissioner Lawson Campbell the Judge gave the words a wider meaning and held that where progeny might, unless treatment was given during pregnancy, be infected, then the disease was communicable within the meaning of the section, although the husband

petitioner had escaped infection. Counsel engaged in the case were unable to quote any authority on the point to his Lordship and no help could be got from the leading text books on divorce where the notes to the section are either entirely silent on the point or infer that the matter is open and remains to be decided in some future case.

The question is of some importance for both the fundamental elements of marriage are involved, those of consumation and of procreation. It is well known that where a woman has been infected with syphilis (as opposed to having been born with syphilis) and a certain time, variously put at two to five years, has elapsed since infection, she is unlikely to infect her husband. She is then in the middle period of her infection and the latter stages, when, for example, damage occurs to the nervous system, have not yet been reached. The length of time which has elapsed since infection can within a reasonable margin be calculated by the manner of the infected person's response to treatment. But, although a woman may be, in a manner of speaking, harmless to her husband, she remains a danger to her baby ; an act of intercourse, possibly one of many from all of which a husband goes unscathed, may result in the conception of a child which, unless treatment is successfully given during pregnancy, will be born a congenital syphilitic. The learned Commissioner held that in such circumstances the disease was present in a communicable form, and, being satisfied that it was in the case before him so present at the time of the marriage (relying for this upon the estimates of time by medical witnesses based on their patients' response to treatment) he granted a decree.

In the case with which his Lordship had to deal, the respondent became pregnant early in the marriage, and her infection was discovered when at her ante-natal clinic she was subjected to the routine tests. As her reaction was positive, her husband the petitioner was similarly tested but with negative results, and he in this way became aware of the respondent's infection in time to file his petition within the statutory year. The recent decision establishes that the presence of the disease in a form communicable to progeny is ground for a decree of nullity ; this may not however be discovered by the would-be petitioner until after the statutory year has elapsed. If the disease is present in a form communicable to the other spouse he is reasonably certain to discover that fact early enough for him to present his petition within the year for he will have almost certainly become infected. But the presence of the disease in the latent form, not communicable to the spouse *but* communicable to progeny will in most cases only be discovered by laboratory tests and these are not likely to be carried out (where a husband has no suspicions and a wife wishes to keep some aspects of her earlier life unknown to him) except at an ante-natal clinic in connexion with a pregnancy. It is likely, therefore, that the discovery will not be made until it is too late for a petition to be filed, so that the relief to which a would-be petitioner is by the recent decision entitled, is, in fact, debarred from him because he is unable to comply with what is no more than a procedural requirement. A defect of so marked a nature should be remedied when next the opportunity occurs.

SURREY QUARTER SESSIONS RECORDS OF THE SEVENTEENTH CENTURY—III

By ERNEST W. PETTIFER

(*Continued from p.* 419, *ante*)

Amongst the many difficulties with which the Surrey justices had to contend was the ever-present one of keeping the amateur constabulary in hand and making them perform their allotted duties. Warrants handed to constables were not executed ; prisoners were allowed to escape ; some refused to be sworn in, or they refused to carry out their general duties after being sworn in. Constables refused to undertake night duty, and bailiffs and constables misused their offices by illegally collecting moneys under threats towards their victims.

It is evident that there were occasions when justices had to accompany their unwilling officers and enforce the law themselves. On March 6, 1664, Sir John Lenthall and Mr. John Scott, accompanied by Sir Walter Plumer, the sheriff of the county, went in person to a riot at Redrith, arrested Thomas Kent and other rioters and put them in gaol. Kent was later fined £5 and all the others 30*s*. In April, 1661, upon a complaint from the Vicar of Farnham that he had been put out of his own church by four men, Mr. George Vernon went to the church in person, found the four men, all armed, in possession, arrested them and committed them to Southwark gaol. On February 2, 1665, Sir John Bromfield and Mr. George Moore went to a house in " le Clinke Liberty " in Southwark, found two armed men in possession, and arrested them. At the least, such incidents show that the justices shouldered their responsibilities whatever personal risks might be involved.

The justices found, also, that it was difficult to keep in order the machinery of punishment, such as the stocks and whipping posts. Throughout the four volumes under review there is no record of anyone having been sentenced to sit in the stocks. It is reasonable to suppose that they were used, in all probability quite often, by the local justices, for minor offences, but sentences of whipping for larceny, ordered by the quarter sessions, are to be found noted up against petty thieves, and in the lists of presentments there are several entries concerning lords of manors who had failed to keep stocks and whipping posts in good order. In some cases the responsibility for keeping them in order appears to have been with local inhabitants—" The stocks at Sutton are in such disrepair that law-breakers cannot be punished in them," says one entry, and the inhabitants of Sutton were fined 10*s*. Even the powerful Lord Mayor and Corporation of London incurred the displeasure of the justices for allowing the whipping post and cage in the parish of St. George, Southwark, to be out of repair.

The White Lyon gaol, the principal county gaol, situated in the borough of Southwark, was a constant source of worry for the county justices. Again and again minutes appear concerning the governor, the buildings, and the conditions in the prison, but only the briefest summary can be given in these notes.

The governor was William Arthur. That he was a rogue is clear enough from the minutes, but he was no worse, and no better, than the average prison governor of his time. Possibly the Surrey justices were more conscious of the abuses of the prison system than some other quarter sessions.

In 1661, the justices set out, in a long statement, the position as to the prison. The premises were ruinous and inconvenient both for the safe keeping and the health of the prisoners.

Originally much ground had been bought with a view to extensions, but the justices found that this additional land had been disposed of " to the use of private persons." The justices appointed a committee of seven of their own number to make a complete survey of the situation, and to obtain possession of the deeds. The governor's salary of £50 was in the meantime suspended until the court could judge whether he " deserved so great a reward."

At the next sessions, the committee reported that no person had attended before them, and the justices concerned were asked to continue their efforts, and in the meantime Arthur was directed to commence repairs to the prison under the supervision of the committee.

The committee next reported that the deeds and accounts concerning the disposal of the land were in the hands of Michael Packston (Paxton), scrivener, of London, and other persons, who refused to deliver them up without an order of the court. An order was duly made, but it can be stated at this point that, in spite of repeated orders and directions that the persons concerned should be bound over to appear and produce, the vital documents never were produced.

Later in the same year the committee of justices reported very fully and conclusively upon numerous points raised in a questionnaire handed to them by sessions. Quarter sessions recorded warm appreciation of " the singular care, diligence and pains therein used by the referees," and the committee indeed deserved this commendation. They had solved the mystery as to the sale of the land. The amount allowed by quarter sessions had not been nearly enough to meet the costs of the building and this land had been leased off to various persons for long terms in order to raise money to complete the building. The surveyors had thought that there was too much land, the committee stated, but that " guisinge (guessing) amisse, as we conceive " they had left too little land for the prison.

There was, the report continued, great need for a workhouse for those committed to hard labour ; there was no " house of office," and no separate room for women. There was a very small chapel for debtors, and the " criminal prisoners had to come to the window to listen." The governor kept several rooms locked up for his own use, and the prison kitchen was also reserved for Arthur's use. A long yard, divers tenements and the lodge had also been leased out and were not available.

The committee quoted the various statutes dealing with prisons, and found that the governor was responsible for many of the evils found in the White Lyon gaol. He was drawing a revenue from prisoners who could pay for rooms. There was no sanitary accommodation and " filthy dunghills in the yard." Condemned criminals awaiting execution, ordinary criminals, debtors, and women (including those who had been reprieved owing to pregnancy), were herded together. The prison was " pestered by felons who could not find sureties or who could not pay the gaoler's fees, which fees deserve to be regulated . . . for some lie here seven years and die here."

The committee recommended that the court should have before them such prisoners as could be discharged, and so relieve the prison. Arthur and Hall (the under gaoler) had leased seven or eight rooms at £10 rent and a £70 fine, but owed for two and three quarters years' rent. It was advised that other leases (some were for ninety-nine years) should be terminated if legally possible.

On the questions of the governor's service, his stock of materials, and what salary he merited, the committee recorded very definite views. " We are not informed what service he doth, let him give account, for he hath neglected to give us any satisfaction. But we believe he doth not all he ought "! There were no stocks of materials such as were directed by " ye statute 7, Jac. 4th " but only mallets for beating hemp. There were only eleven persons at work when the justices visited. And, the committee's report concluded, " If the house of correction were employed by a good governor, as it might, he might deserve the reward allowed, but let him give account in writing every quarter sessions who has been committed, and who has escaped before being lawfully delivered. In which case to be fined." Four justices signed this outspoken document.

At this point one justice, Mr. Anthony Thomas, who had been very active in the inquiry, was appointed to carry on alone.

It was reported (January, 1662) that the bill for bread for prisoners had not been paid for nine months, amounting to £50. Arthur was directed to report weekly to the justices sitting at Southwark, who would allot the weekly amount of bread.

In April that year, Arthur petitioned the Croydon sessions that a considerable sum was owing to him for repairs to the prison. Referred to a committee of four justices. At the same session two justices were deputed to suggest to the sheriff of the county that he might make a contribution towards the repairs to the gaol.

In July, 1662, Arthur was presented at Guildford sessions for allowing a prisoner to escape. In February of the next year, the under sheriff, by direction of Sir Nicholas Stoughton the sheriff, entered the prison and summarily ejected Arthur, and informed the justices that the sheriff declined to pay anything towards the repairs of the gaol. Yet at the next sessions but one (Guildford, July, 1663) the justices continued Arthur's tenure of office as governor, and directed that the prison should be leased to him, the only saving provision being that the lease should be settled by counsel. It was a strange ending to the efforts of the quarter sessions to reform the prison, and there is no obvious explanation for their decision. The entry is the more mysterious because, at the same sessions it is recorded that " several J.P.s now present have informed the court of misdemeanours committed by William Arthur, governor of the house of correction belonging to the White Lyon," and the court then discharged Arthur from the office of governor and appointed Joseph Hall (his deputy) in his stead.

The game of see-saw continued, for at Kingston sessions, October, 1663, Arthur was on the upward swing again, the justices deciding that, as he had not been heard at the last meeting, he should be restored to his post, but only " after a long debate thereof," and his re-appointment referred only to the house of correction, and not to the White Lyon gaol as a whole.

At the Reigate sessions of April, 1665, Arthur turned up with a bill for repairs carried out by him as governor of the house of correction to that institution.

The last event in this " strange, eventful history " of William Arthur was a presentment against him, as governor of the House of Correction for that he " has been a *receptor, hospitator et comfortator* of robbers and other evil-disposed persons," a charge which was probably true, but the jury returned " *Ignoramus* " (We do not know) !

(*To be concluded*)

ADDITIONS TO COMMISSIONS

BEDFORD COUNTY

Harold Lewis James Chapman, 42, Loring Road, Dunstable.
Mrs. Margaret Catherine Irish, 8, South Bridge Street, Shefford.
Patrick James Keightley Pugh, 1, Station Road, Dunstable.
John Bernard Stevens, 10, Friars Walk, Dunstable.

HUNTINGTON COUNTY

Albert Edward Desborough, 191, Fletton Avenue, Old Fletton.
Hubert Francis Turner, 14, St. Johns Road, Old Fletton.
Mrs. Myra Elizabeth Watkins, 116, New Road, Woodston, nr. Peterborough.

THE DRAPED TORSO—AND THE SEQUEL

By A. MADDISON

Bristol, said a writer recently in a popular magazine, is a city that pursues its own independant way irrespective of praise, criticism, or comment from outside. Of all British cities it is the one, perhaps, that has been least influenced by what has been done elsewhere, though the converse is not necessarily true, Bristolians claiming that because of their pioneering zeal they have had an influence on the rest of the world.

The immediate reaction of some members of the city's Museum and Arts Gallery Committee to the decision of Manchester city council not to purchase the celebrated Draped Torso created by Henry Moore tended to support this tradition, though subsequent action has since belied it. "The fact that Manchester has turned it down is no good reason why we should" said one member of the committee.

As distinct from the procedure of the Manchester city council, the Museum and Arts Gallery Committee of Bristol corporation does not have to seek the sanction of the full council for any purchases it may feel disposed to make. A substantial sum has been set aside for the committee to spend as it wishes on works of art. In addition, there is the Wills Fund, quite extensive, for purchases of artistic value, which may be used without reference to the full council.

Eight members were present to view the Torso. Purchase at the price of £765 was strongly urged by the chairman. Three members voted in favour of the proposal, and four against. The chairman then took an action that has since caused a controversy, not about art but about the ethics of chairmanship. He used his right to vote to make the voting equal, *i.e.* four votes each way. He followed this by using his casting vote, resulting in the motion to buy the Torso being carried by five votes to four. Then the rumpus really started.

Even had the decision been unanimous, attacks on the committee by irate letter-writers to the press would have been merciless, but when it was reported that the committee had been divided on the motion and that it was the personal action of the chairman that had decided the issue the fat was in the fire.

Comment among ordinary citizens was caustic. "Ridiculous," "fantastic," "waste of public money," "they want their heads read," were typical remarks heard on the buses and in the shops. But many gave credit to the chairman for refusing to give way to what he considered to be fomented public opinion. On his side was expert opinion, and he confessed that he was more concerned with the views of Sir Lewis Casson than he was with ratepayers who wrote indignant letters to the newspapers.

To add to the general heat, the whole affair was taking place during the municipal elections. Members of the party in power, which held all the council chairmanships, complained that they were feeling the wrath of incensed public feeling everywhere they went. One member of the Museum Committee who had opposed the motion to buy then stated his intention to have the matter debated at the full council meeting, and that in any event he would move the rescision of the motion at the next meeting of the Museum Committee, to take place, oddly enough, on the eve of the poll. Whether for tactical reasons or expediency, the committee meeting was postponed until after the elections. With a modified personnel, the Museum and Arts Gallery Committee, immediately after the elections which had merely returned the same party to power, rescinded the decision to buy the Torso. Carefully removed from the Museum it was returned to its owner. No other municipality is likely to have the experience of Bristol or Manchester, Henry Moore having announced that a private offer has been made for the Torso.

A number of important principles has been raised. One sequel is that some councillors now say that all the bigger purchases of the Museum and Arts Gallery Committee should be subject to the over-riding authority of the full council; all purchases over a certain amount would, in the first instance, be a mere recommendation from the committee, and not affective until the monthly meeting of the council had given approval. But would not this procedure mean that at almost every council meeting a debate would develop on the value of this work of art or of that antique object, to the neglect of more fundamental municipal problems? And the council would be angrily asked by ratepayers if it had nothing better to do than argue about statues and busts. If a committee has been appointed to perform a specialist function it must be left free within reasonable limits to take its own decisions, based on the advice of specialist officers; otherwise the right kind of person will refuse to serve on it.

And the question of co-option cannot be ignored. If it be true that councillors are not experts on matters of art, ought there to be more co-option of interested professional men and women to help, guide, and advise committee members? The chief objection seems to be that the full-time officers are there for advice in any event, and outside specialist opinion can always be sought when required. Many councillors do not take kindly to the idea of co-option on the grounds that, without going through the hustings and the tedious process of selection and election, co-opted persons can go straight on to important committees and in the final analysis are responsible to nobody but themselves. Whereas the elected member has a direct responsibility to the ratepayers and can be removed, the co-opted member does not have to give an account of his stewardship.

A more important question is how far should a committee member or chairman give way to public pressure on matters with which the general public is not acquainted, and where prejudice rather than aesthetic appreciation may be paramount. Is he to take more account of the views of his professional advisers than of the ratepayer who foots the bill? Whatever the answer, a committee dealing with cultural and artistic matters has a duty to try to raise public taste. How can it do so if it is never allowed to experiment, to buy the unconventional, to take risks? In art, what is scorned as rank heresy today may be praised as traditional tomorrow. To defer to what is vaguely called public opinion, all too frequently means giving way to a vociferous minority. The mass of people are quiescent and passive, about subjects they have not been educated to understand.

Should a chairman vote twice, safe in the knowledge that expert opinion is behind him, to bring about a decision against which half his committee is opposed, and which he knows will create a controversy? In the last resort, this is a matter for the chairman and his conscience. But in using his casting vote he contravenes no council rules, makes no break with customary procedure.

It is no co-incidence that the critics of this particular chairman's action were those who disagreed with the buying of the Torso. Had it been the other way round these same critics would

have maintained a discreet silence. It is ironical to recall the case of the committee chairman who was " carpeted " by his party group for not using his casting vote on party political issue. For declaring the motion not carried he was castigated. Yet when another chairman does use his casting vote he is told that it is most unwise.

These are some of the old arguments revived after the exit of the Torso. Admirers of the work of Henry Moore regret that the Torso was not to find a permanent home in a city that claims such a great love of the arts. In any event, the total cost would not have fallen on the rates. The Arts Council offered £100 towards it, and the Friends of Bristol Museum another £100.

One good effect of the short sojourn of the Torso in Bristol was that many Bristolians visited the Museum when otherwise they would not have done so. After a furtive glance at the Torso they turned (a little disappointed, perhaps) to the display of Chinese ceramics and the exhibition of amateur photography. The most satisfying feature of all was that the controversy cut right across party political barriers. And I am sure that those who enjoyed the debate most of all were the reporters and journalists.—They had a field day.

MISCELLANEOUS INFORMATION

NALGO CONFERENCE (2)

Delegates at this year's conference of the National and Local Government Officers Association showed no little consternation when the president, Mr. T. Nolan (Yorkshire Electricity Board), announced that the Exeter city council had required their town clerk, Mr. C. J. Newman, to resign from the association's executive council.

Mr. Newman had just been re-elected after some nineteen years' membership. The decision therefore was received with surprise as well as with regret. When Mr. Newman had been elected to the office of president the town council had given him their congratulations. Many other town clerks have held high office in NALGO and some do so now ; the Exeter city council, therefore, as NALGO pointed out in a letter of protest, were adopting an attitude at variance with that of local authorities in general. They were, moreover, denying to Mr. Newman's constituents in the association the right to choose their representative in the trade union of their choice.

The attention of the city council was called further to the code of professional conduct which the association adopted many years ago and which is accepted by every member ; that code lays down as a cardinal duty of every local government officer to give his undivided allegiance to the employing authority. Members of the association, of all grades, thus unite on the understanding that the duties of the individual officer to his local authority are paramount.

The association, in its letter to the Exeter authority, maintained that its interests and those of local authorities are not even *prima facie* in conflict. General service conditions are regulated by voluntary joint machinery of employers and staff, so that the Exeter council, like others, is in fact collaborating with the association. If local differences should arise between the city council and the local branch of NALGO, then Mr. Newman would doubtless observe the customary reservations which apply in an issue of this kind and would refrain from participation in NALGO's counsels on it.

After this letter had been read to the conference and the president had said that no reply had yet been received, he asked the conference to support a motion expressing appreciation of Mr. Newman's many years of service to his fellow-officers. Delegates showed an inclination to express themselves in much more forceful terms on this issue, but the president persuaded them that it was wiser, until the city council had replied, to " keep the situation fluid." The laudatory motion was thereupon carried with great enthusiasm.

A notable feature of this year's conference agenda was the relatively high number of motions dealing with topics of broad public interest in contrast to the normal practice to confine it to domestic issues. Thus some branches wanted NALGO to join in the campaign against derating ; others that it should press for the inclusion of NALGO members on the hospital boards in Scotland ; another motion regretted the financial limitations placed upon the social services ; one deplored the decision to establish commercial television; and yet another called for higher standards of decency and good taste in publications.

These general motions were prefaced by one seeking to declare that NALGO should now be willing to express publicly a considered opinion on matters of public policy connected with local government and the nationalized services. In a crowded agenda the president made way specially for this to be debated and it was carried without dissent. But, though the principle is now accepted, time prevented its implementation this year, for the other items, summarized above, were not reached. A broader-reaching agenda paper may be expected next year.

Mr. P. H. Harrold, town clerk of Hampstead and the association's honorary solicitor for England, made a statement on the Local Government Superannuation Act, 1953, which, he said, removed the major defects of the Act of 1937 by providing pensions for widows and many minor benefits. The regulations giving effect to the Act would shortly be promulgated and would have effect from October 1. Then each officer would have six months in which to choose whether to accept the terms of the new Act or to remain as he was. He would be aided by an explanatory booklet to be issued by the association.

The special conference of the association held last April to discuss salaries had decided to call for a general review of salary structure throughout the services which NALGO represents. Already the employers in local government had agreed to such a review and proposals were being drawn up by both sides. In these circumstances a number of motions relating to the national charter of service conditions were withdrawn since the matters to which they related would automatically come under review.

The conference supported a motion put forward by the executive council in favour of the establishment of a joint standing committee of the Ministry, the local authority associations, and NALGO to keep under review the need for further changes in the pension scheme. Another motion approved concerted action with other organizations to obtain the abolition of the means test under the Pensions (Increase) Acts, 1944-1952. Authority was given to the executive to press for help for displaced assessment committee staffs unable to establish a right to compensation and to seek express statutory provision for local and other public authorities to insure for the benefit of officers whose duties involve special risk as incidental to their contract of service.

At the end of the proceedings Mr. L. H. Taylor, chief administrative assistant in the town clerk's department at Salford, was inducted as president for the ensuing year. Mr. Taylor has been a member of NALGO for forty-four years and has held a number of local, provincial, and national posts in its organization.

LIVERPOOL POLICE REPORT

Although there was only a slight decrease in the number of crimes recorded in the city of Liverpool in 1953 as compared with 1952, there was a more significant reduction in juvenile crime. In his report the chief constable, Mr. C. Martin, says that the juvenile liaison scheme to prevent juvenile crime is now beginning to prove itself. During the year the overall figure for indictable offences committed by juveniles was 1,961 as against 2,358 for 1952, a decrease of 16·8 *per cent.* The number of juveniles prosecuted was 1,508, a decrease of 323 on the total for 1952, and the lowest for sixteen years.

The number of juveniles cautioned for committing crimes of one kind or another in the year was 496. In this connexion it must be remembered, says the report, that many of the offences for which juveniles were cautioned would not have come to the notice of the police but for the juvenile liaison officers. It is clearly better that they should come to notice since not only is it possible to get a much better appraisal of the extent of juvenile crime generally, but it also enables offenders to be dealt with before they can begin to commit more serious crime. In this connexion it is interesting to note that 121 children under eight years of age came within the scope of the liaison officers' work.

Liverpool has its difficulties like other cities, in recruiting for the police. During 1953, there was a net loss of forty-three men, resulting in 444 vacancies, out of a total establishment of 2,264. As to special constables, however, the position is generally satisfactory.

The report records a very sharp decrease in the amount of cargo reported stolen from the docks. The value of the property stolen was £5,500 which is about half the value of that stolen in 1952. In 1948, the worst year, the figure was £21,570.

Mr. Martin comments on the laxity so often shown in the matter of precautions against theft, and he adds that the police are seeing responsible people in business, industry, banking, etc., to offer advice, where necessary, on matters concerning the security of money and goods, and a pamphlet is being distributed which will offer some suggestions on how they can help the police in the matter of crime prevention.

A novel feature of this report is a paragraph headed " Shebeens," which appears to have an Irish flavour. It reads : " During the year there were thirty-five prosecutions in respect of the illegal sales of intoxicating liquor at fifteen houses in the city an increase of twenty-seven compared with 1952. As a result of these proceedings forty-one principals (sixteen males and twenty-five females) were convicted and 514 persons (184 males and 330 females) who were found on the premises were prosecuted."

From many quarters we hear encouraging accounts of the work done by the Attendance Centres, but this report is rather cautious about claiming success. In Liverpool the boys normally attend six fortnightly sessions of two hours each, on Saturdays. The boys are occupied in drill, physical training and either a cleaning fatigue or an instructional activity, such as boot-repairing, woodwork, clothes mending, general handiwork or first-aid instruction. The boys attending are divided into a junior group comprising those aged twelve or thirteen, who attend each alternate Saturday, and a senior group for those aged fifteen or sixteen, who attend on each intervening Saturday. Those aged fourteen attend the group most suited to their capacity. Fifty-six boys were ordered to attend the centre. Two juniors and one senior failed, without reasonable excuse, to attend and were taken before the court. Ten boys committed further offences, one junior and one senior after having completed their attendance period, and four juniors, four seniors whilst still attending.

The work of this centre, says Mr. Martin, can be regarded as experimental. The running of it presents no special difficulty to the force but it is impossible to feel that it is having any particular influence on the problem of juvenile crime, especially as far as the police are concerned.

LIABILITY OF INNKEEPERS

The Law Reform Committee has issued a report which is of general interest on the law relating to the liability of innkeepers in respect of the property of travellers, guests and residents. The common law has for centuries regarded innkeepers as being in a special position in regard to their duty to receive travellers and their liability for the goods which travellers being with them to the inn. The Innkeepers Liability Act, 1863, did not attempt to define strictly what was meant by the term " inn " but unless the proprietor holds himself out as prepared to receive all travellers or casual visitors his establishment cannot generally be regarded in law as an inn. As is explained in the report of the Law Reform Committee a distinction which is by no means always easy to apply in individual cases is thus drawn between an inn and a boarding house or a so called private hotel. The test is the duty of the innkeeper to receive and lodge every " traveller " unless he has reasonable grounds for refusing to do so and to receive the travellers' " horse, carriage, car or other vehicle " and any other goods with which a person usually travels. After some time at the inn a person may cease to be a " traveller " and become a mere lodger but the time required for this purpose may well be an extended one. Once a traveller is converted into a lodger the liability of the innkeeper towards him will depend upon the ordinary law of negligence. At common law an innkeeper is under a strict liability to answer for the loss of all goods brought to the inn by a traveller and is in effect an insurer of his goods against loss. He cannot escape liability by warning his guests to take special precautions nor can he restrict his liability by any express contract. He can only escape liability if he can show that the loss of the goods was due to an act of God or the Queen's enemies or the guest's own negligence. It was held in *Williams* v. *Linnitt* [1951] 1 K.B. 565 that a car park in front of an inn must be regarded as within its hospitium so that an innkeeper is liable for the loss of a car which was stolen while its owner was having a drink at the inn and the innkeeper cannot escape liability by putting up a notice to the effect that he would not be liable for the loss of anything in the car park. The Act of 1863 sought to place some restriction on the strict liability of an innkeeper provided he exhibits a copy of s. 1 in a conspicuous part of the hall or entrance to the inn, but the Act does not extend to a motor-car. The Law Reform Committee think that this section may well be sufficient to justify the view that an innkeeper is in law under the same liability for damage to goods as he undoubtedly is in the case of their loss but that the matter is not free from doubt.

The Law Society has expressed the view that the time has come for an alteration in the old common law liability of innkeepers as insurers of the goods of a traveller, particularly as there are now many residential hotels which are not inns and at which travellers do not have the benefit of the special protection afforded by common law to those who stay in inns. The Society suggested that innkeepers should be placed in the same position as the proprietors of residential hotels and similar establishments under which their liability would depend upon negligence. The Law Reform Committee came to the conclusion, however, that the principle of strict liability ought to be retained because there is no real hardship as innkeepers generally insure against their liabilities at a cost which is not at all prohibitive. It is pointed out in the report that whilst the innkeeper has a special obligation in regard to the safety of the goods which travellers bring with them the innkeeper, unlike the boarding house keeper, has a lien on them for his charges. It is noteworthy that a similarity exists between English law on this matter and the laws of many foreign countries under which special obligations are imposed upon innkeepers in regard to the safety of their guests' property.

The Law Reform Committee agree that it would be more satisfactory to provide some easily understandable basis for the distinction between an inn and an establishment such as a residential hotel but did not find it possible to make such a distinction. It suggested, however, that in any fresh legislation an attempt should be made to define an inn (or as the Committee suggest " hotel ") in a more satisfactory way than was done by the Act of 1863. As to the liability for the loss of a car from a car park it is suggested that it is reasonable that an innkeeper should no longer be under a strict liability but with the corollary that he should no longer have a lien on the car for his charges. On the doubt which exists in the law as to the innkeeper's liability for damage to goods it is suggested that no logical distincton can be drawn between the loss of goods and damage to them and that it should be made clear by declaratory legislation that the liability is the same in both cases.

It was not within the province of the Committee to make any recommendations in regard to the duty to receive travellers which the criminal law imposes on innkeepers although the Committee thought that if the civil law is altered it may be desirable to bring the criminal law into line on certain points. It might, for instance, be reasonable to alter the law in regard to an innkeeper's liability to receive a traveller's motor-car and that the obligation to supply refreshment should be confined to those who are travellers in the sense that they are persons who stay the night at the inn or hotel.

LOCAL GOVERNMENT FINANCE IN DERBYSHIRE

Mr. T. Watson, A.S.A.A., F.I.M.T.A., County Treasurer of Derbyshire, has published his sixth annual booklet dealing with local government finance in the administrative county for the year 1954/55.

Population in mid-1953 was estimated at 691,700, rateable value at April 1, 1954, at £3,986,000, and rateable value per head of population had increased at that date by 2*s*. 1*d*. to £5 15*s*. 3*d*. from the corresponding figure at April 1, 1953. The 1*d*. rate for 1954/55 is estimated to produce £15,698 and the average of general rates levied has increased slightly to 22*s*. 7*d*. as compared with 22*s*. 4*d*. in the previous year.

Although rates have only increased on the average by 3*d*. expenditure has risen in a much higher proportion. County council expenditure has increased by £1,025,000 to £11,773,000 and county district councils estimate to spend £4,544,000, which is £384,000 more than in 1953/54. Rates will finance £4,317,000 of this total and government grants £8,670,000, the latter including a substantial equalization grant of £1,891,000 equivalent to a gain in rate poundage to the county of 10*s*.

The highest rate of 25*s*. 2*d*. is levied by the borough of Glossop, the lowest of 18*s*. 4*d*. by Chapel-en-le-Frith rural district council, but the rates paid per head of population are £6 19*s*. 6*d*. in Glossop and £13 9*s*. 5*d*. in Chapel-en-le-Frith.

Forty *per cent*. of the properties in the county are valued at not exceeding £10. There are 206,000 domestic properties in all ; of these 35,000 are council houses. The latter are subsidized from public funds to the extent of £950,000 or £27 per house *per annum*.

In Chesterfield an additional deficiency contribution for housing of £11,800, fifty *per cent*. in excess of the minimum statutory contribution, is called for from the ratepayers, whereas in Glossop only £70 in excess of the minimum is required. The former authority have evidently decided that Chesterfield ratepayers should be asked to shoulder a greater part of the deficiency than their brethren in some other authorities. Rents in Chesterfield for post-war houses range from 12*s*. 3*d*. to 14*s*. 9*d*. whereas in Glossop the range is from 16*s*. 11*d*. to 22*s*.

Net loan debt of the Derby local authorities increased during 1953/54 by £7,700,000 to a total of £49,200,000 of which the county council's share only amounted to £5,200,000.

Mr. Watson and his collaborators must again be congratulated on producing one of the best booklets which has come to our notice.

MENTAL HOSPITAL STAFFING

There was a short adjournment debate in the House of Commons on May 3 on the serious shortage of nurses in mental hospitals when it was complained by some members that recruitment is practically negligent even although the number of patients is increasing. The Parliamentary Secretary to the Ministry of Health (Miss Patricia Hornsby-Smith) said mental health had been given a very high priority in the allocation of capital in the building programme and it was hoped in the next five years to have an additional 3,000 mental deficiency beds and 1,500 mental hospital beds. As to the present accommodation position, she said the waiting list for mental defectives is still serious but has been reduced to about 9,000. On staffing, she said that the recent

recommendations for further increases in salary will improve the position and it was hoped will encourage students to enter the mental field and further to complete their training as fully qualified mental nurses. An increase in dependants' allowances had also been agreed. During the debate it was suggested by one member that there should be greater publicity and a change of approach to mental nursing training by the General Nursing Council. On this point the Parliamentary Secretary said a publicity campaign has been launched and is being conducted by the Ministry but with emphasis on local area campaigns of which thirty-six are proposed. Schools are being included in the campaign.

TOWN PLANNING

Exeter was one of the cities which was seriously bombed during the Baedeker raids particularly in its congested central part and the problems of planning and development have been specially difficult. It was appropriate that Exeter should therefore have been selected as the venue of the recent country meeting of the Town Planning Institute and that the city planning officer should explain how the reconstruction of the city is proceeding. This has involved the compulsory purchase of some sixty-six acres of land. As he showed, the position of the local authority in connexion with Government grants was altered by the Town and Country Planning Act, 1947. The Act of 1944 contemplated early rebuilding of large areas, which had been seriously bombed, but the Act of 1947 assumes that only small areas which could be developed as a unit in a reasonably short period should be acquired. With the passing of the years those outside seriously bombed areas are apt to forget the great damage which was sustained in some cities and the problems which will have to be faced in rebuilding for some years ahead. For instance, Exeter lost in the raids of 1942 400 shops, 150 offices, fifty warehouses, twenty-three licensed premises, six churches and three cinemas, resulting in a loss of nearly £100,000 rateable value. By 1950, much new building had been completed and has since gone on steadily. The total cost of the buildings completed or under construction is about £2 millions and the council has acquired land at a cost of about the same amount. One important effect of the rebuilding on the council's finances is that mainly due to the increased rateable value it was possible this year to reduce the rate by 10*d*. when the ratepayers of most of Britain had to face increases.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 52.

WILD LINNETS FOR SALE

A bird breeder and exhibitor, well known in the Oxford area, was charged at Hornsey (London) Magistrates' Court recently with offering two wild linnets for sale on a day in March last, contrary to s. 1 of the Protection of Birds Act, 1933.

For the prosecution, it was stated that it was common knowledge that there was a wide-spread trade in wild birds, and the Act sought to regulate and limit this trade. The defendant advertised in a trade magazine and offered aviary birds for sale.

An R.S.P.C.A. inspector gave evidence that he sent money off for a pair of linnets. The linnets were sent to him packed in a small wooden box, and one died after four days. Witness gave reasons for his conclusions that the birds were not aviary but wild birds.

The defendant told the court he had been breeding and exhibiting birds for thirty years and had won 2,000 or more prizes and certificates. He was a life member of the British Bird Breeders' Association.

Defendant said that the two linnets were bred in his own aviary and they showed signs of being wild birds only because his aviary contained natural conditions. Defendant was fined a total of £4 and ordered to pay £5 5*s*. costs. The chairman directed that the linnet in court should be retained by the R.S.P.C.A., for fourteen days and then released at a suitable place.

COMMENT

The Act of 1933 which prohibits the taking of certain wild birds with the intention of selling them alive, or the selling or offering for sale of certain birds, makes offences punishable with a fine of £2 or, in the case of a second offence, with a fine of £5.

The birds protected under the Act are those mentioned in the schedule and included in the list is the linnet. R.L.H.

No. 53.

"OWNER" WITHIN THE MEANING OF THE POLICE (PROPERTY) ACT, 1897

Application was made to the Poole justices recently under s. 1 of the Police (Property) Act, 1897, by an insurance company for certain equipment, formerly belonging to an electrical engineer, to be handed over to them.

The facts of the case were that an electrical engineer insured his tools for a sum of money, and after a time staged a housebreaking and claimed upon the insurance company who in due course honoured their obligation and paid the insurer the sum of £164. Due to the success of this ruse, the engineer decided to repeat the crime with regard to a motor-car, but unfortunately for him the police intervened. On searching the premises with regard to this latter crime, they discovered the equipment which had been alleged stolen previously. The engineer was duly charged and convicted of obtaining money by false pretences from the insurance company and also of an attempt to obtain the same and was sentenced to a term of imprisonment by quarter sessions. At quarter sessions, the police produced the equipment but no order was made by the learned recorder for its disposal.

Before the justices, the company contended that they were the owners of the equipment, and quoted in their favour *Shawcross on Salvage* supported by the well known authority of *Holmes* v. *Payne* (1930) L.T.R. 143. The defence, however, contended that the insurance company were not the owners of the property for the purpose of the Police (Property) Act, 1897 and relied on *Falcke* v. *Scottish etc. Co.* (1886) L.T.R. vol. 56 and *Marsh* v. *The Police Commissioner* (1945) 109 J.P. 45.

After hearing the solicitors for both parties, the justices came to the conclusion that the insurance company had a sufficient "ownership" to satisfy the meaning in the Police (Property) Act, 1897, and ordered that the goods be handed over to them.

COMMENT

It will be recalled that s. 1 of the Act of 1897 provides that where property has come into the possession of the police in connexion with any criminal charge, a court of summary jurisdiction may, on application either by an officer of police or by a claimant of the property, make an order for the delivery of the property to the person appearing to the court to be the owner in respect thereof, or, if the owner cannot be ascertained, make such order with respect to the property as the court thinks fit.

The most recent authority on the interpretation of this section of the Act is *Marsh* v. *The Police Commissioner*, *supra*, and in that case the decision of the Divisional Court was reversed by the Court of Appeal over which Lord Goddard presided.

The case, it will be recalled, related to the ring of a guest at the Ritz Hotel, who on being asked to pay his bill handed to the manager of the hotel a woman's diamond and sapphire ring as security for payment of the bill. The ring deposited had been obtained by the guest by fraud from a firm of jewellers and the guest was later convicted of the larceny of the ring.

Application was later made to the Feltham justices that the Commissioner of Police who held the ring should be directed to hand over the ring. Rival applications were made on behalf of the Ritz Hotel and on behalf of the jewellers, and the two applications were heard together.

The case turned on the question of whether the innkeeper's lien had attached to the ring, and the justices, holding that it had, dismissed the jewellers' claim and ordered the ring to be handed to the hotel. The Divisional Court reversed the order of the justices holding that, as the innkeeper had received the ring as a pledge, the lien had not attached. The Court of Appeal after hearing full argument, was of the opinion that the decision of the justices was right in holding that the jewellers were not entitled to the ring, and decided that it was unnecessary for the purposes of the case to give a concluded opinion of the meaning of the word "owner" in the subsection.

(The writer is indebted to Mr. A. E. Tritschler, LL.B., clerk to the Poole justices, for information in regard to this case.) R.L.H.

PENALTIES

London Sessions—June, 1954. Stealing a pair of stockings value 5*s*. Eight years' preventive detention. Defendant, a sixty-eight year old widow, had been sent to the Sessions for sentence. She had eight previous convictions, all for shoplifting and was released from the last sentence in April, 1954.

Aberdare—June, 1954. Selling beer in a room where suitable washing basins and a sufficient supply of soap, clean towels and clean

hot and cold water were not provided within a reasonable distance. Absolute discharge. To pay 4*s.* costs. Defendant, the licensee. The brewery company owning the premises had given an assurance that the necessary work would be put in hand forthwith.

Lambeth Magistrates' Court—June, 1954. (1) Selling intoxicants without a licence (2) supplying intoxicants after 11 *p.m.* Fined a total of £50, to pay £7 costs. Premises disqualified for twelve months. Defendant, the proprietress of a club, knew that a policeman who bought intoxicating liquor between 11 *p.m.* and midnight, was a police officer. Each night between forty and fifty people used the club to drink until well after midnight.

Southampton—June, 1954. Overloading a ship. Fined £295, to pay £10 10*s.* costs. Defendant, the master of an Italian tanker, which was found to have been submerged 3″ below the load line. Increased earning capacity of the ship due to this was £921 13*s.*

Bexhill—June, 1954. Causing unnecessary suffering to a dog. Fined £10, to pay £10 10*s.* costs. Defendant, worried by the ravages of rabbits and dogs, filled gaps in his fence with sharpened bamboo stakes which were placed in the ground at an angle of 45°. Later a dog was found with a piece of bamboo stake projecting from its body ; it died two days later.

Bromley—June, 1954. Practising dentistry when not registered (three charges). Fined £10 on each charge and ordered to pay £5 5*s.* costs. A man went to defendant's shop by arrangement with the Dental Board and said he wanted a set of false teeth. Defendant removed the old set from the man's mouth and made a new set for him which he inserted, fitted and fixed.

PERSONALIA

APPOINTMENTS

Mr. Henry A. Davey, deputy town clerk and solicitor of Finsbury Metropolitan borough council, has been appointed town clerk and solicitor in succession to Mr. J. E. Fishwick, now town clerk of Lambeth. Mr. Davey commenced his career in the service of the late Mr. F. Quekett Louch, town clerk to Newbury, Berks, and the late Mr. William R. Pettifer, clerk to the Newbury borough justices. After periods of service with Dorset county council and Hendon rural district council, Mr. Davey was articled to the late Mr. Wilfred Townend, the town clerk of Fulham, and after being admitted in 1933, held the appointment of assistant solicitor to the Fulham Metropolitan borough council from that year until 1940, when he became the deputy town clerk of Finsbury.

Mr. E. Hutchinson has been appointed clerk to the Castleford, Yorks, urban district council, and is relinquishing his present post as town clerk of Bacup, Lancs. He was admitted in 1949, after serving his articles with Mr. E. C. Parr, LL.B., town clerk of Middlesbrough. Mr. Hutchinson served in the office of the town clerk of Middlesbrough from 1928 until 1950, when he left to take up the position he now holds.

Mr. D. E. Jones, deputy magistrates' clerk for Barmouth, Merioneth, has been appointed solicitor to Oldridge urban district council, Staffs.

Mr. Kenneth Williams, an assistant solicitor in the town clerk's department, Wolverhampton, since September 1951, has been appointed to a similar position in the Nottingham town clerk's department, where he will take up his duties in July.

Superintendent A. D. J. F. Anderton, of Liverpool city police, has been promoted Chief Superintendent, Administration Department, at the Dale Street headquarters.

RETIREMENTS

Mr. A. E. I. Curtis, town clerk of Neath since 1919, is to retire in September. He is to be presented with the freedom of the borough in recognition of his services. Mr. Curtis was admitted in 1913, and is clerk to the Neath borough justices.

Mr. Robert Pettifer, clerk to the Dartford magistrates for the last twenty-three years, is to retire next month.

Mr. L. Newton, of the firm of solicitors, Newton and Calcott, has retired from his position as clerk to the Linslade, Bucks, petty sessional division. Mr. Newton, who was admitted in 1904, has held the appointment for twenty-four years. Previously, his cousin Mr. C. W. B. Calcott had held the position for twenty-seven years, and Mr. Newton's father was the clerk from June, 1856, until Mr. Calcott's appointment.

Mr. F. Warner, clerk to East Preston parish council, Surrey, for the past fifty-eight years, is to retire in September.

Mr. Harry Catt, superintendent of the Worthing, Sussex, rural division of the West Sussex constabulary, is to retire in October after thirty years' service.

Mr. E. Bullock has been appointed clerk of Little Walsingham, Norfolk, parish council, succeeding Mr. J. Woollard.

OBITUARY

Mr. David William Evans, coroner for Newport since 1940, has died at the age of fifty-one. He was immediate past president of Monmouthshire Law Society, and he was principal of the firm of Lyndon Moore & Co., solicitors, of Newport, being admitted in 1929.

Sir George Borg, a former Chief Justice of Malta, and president of the Island's Appeal Court, has died at the age of sixty-seven.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

CRIMES OF VIOLENCE

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, told Mr. R. W. Sorensen (Leyton) in the Commons that in the Metropolitan police district, 406 persons under twenty-one years of age were dealt with for crimes of violence in 1953 and 9,002 for other indictible crimes ; the comparable figures for 1952 were 310 and 10,287, and for 1948, 336 and 11,320.

In reply to a suggestion that a departmental inquiry should be made into the origin and nature of the " Edwardian " gangs, Sir David said he could not find on present information that such an inquiry was necessary.

Mr. Sorensen : " Do not the figures which the Home Secretary has given show that, contrary to public assumption, there has not been a very great increase in crimes of violence among these young people ? In those circumstances, would it not be well to make it clear that these so-called " Edwardian " youths in exotic clothing are not necessarily more prone to violence than were their predecessors years ago ? "

Sir David said he agreed that the figures were probably smaller than were expected, but they were much too large for any complacency. He would be glad to see the boys' clubs and young persons' interest aspect of the matter developed as much as possible.

AFFILIATION ORDERS

Sir David told Mrs. L. Jeger (Holborn and St. Pancras) that the number of affiliation orders made at magistrates' courts in England and Wales was 3,944 in 1951, 4,072 in 1952, and 3,979 in 1953.

FREEWHEELING

" Travel, in the younger sort," says Francis Bacon, " is a part of education ; in the elder, a part of experience." Señora Carmen Aguilar, the wife of a Spanish agricultural worker, has apparently taken this saying to heart, for her last baby was born in the public omnibus that was carrying her to the maternity home at Tarragona. Education, in this competitive world, cannot begin too early or be too intensively applied ; the omnibus-company, fully realizing this truth, have celebrated the happy occasion by conferring upon the lucky child the freedom of their vehicles for life. Provided he limits his journeys to the routes covered by their organization, this fortunate infant will be enabled to see the world—or some part of it—*gratis*, wandering forth as freely as did his illustrious fellow-countryman, Don Quixote de la Mancha, in the pages of Cervantes.

The news-item does not tell us whether the facilities so granted include priority in the queue and the right to a seat, or reasonable standing-room, in any bus. If conditions in Spanish urban districts are anything like those in our towns, the privilege of free travel would be an empty one in the absence of a guarantee (1) of being able to board the vehicle without first standing for hours in driving rain, and (2) of being carried to one's destination without the risk of crushed ribs, a dislocated spine, and severe arthritic pains. Nor do we know whether the Spanish bus-company gives any warranty to this favoured passenger to get him to his destination on time, or at all, on occasions when the services are disrupted by the exigencies of troop-movements, religious processions, local and national *festas*, saints'-days and bull-fights. We can sympathise with their difficulties, for in our towns we have, *mutatis mutandis*, the same problems. Here they are called road-repairs, the Cup Final, learner-drivers, horse-drawn vans, Wimbledon, or the rush hour. For any bus-born babe the privilege of free travel for life on the road-vehicles of London Transport would be, as the lawyers say, *nudum pactum*, or even *damnosa hereditas*; and any expectant mother has only herself to blame if she entrusts her " condition " to the vagaries of the traffic, believing, with Robert Louis Stevenson, that

> " To travel hopefully is a better thing than to arrive ; and the true success is to labour ; "

for she may be successful sooner than she hopes, and cease to be expectant, in the traffic-block at Shaftesbury Avenue or the Marble Arch.

Man has overreached himself in this sphere of travel as in that of international power-politics. Just as inveterate hostility and aggressiveness on both sides of a divided world have lead to a piling-up of armaments which neither side can indefinitely support, and that in turn to dead lock and stalemate, so the national craze for faster travel and higher speeds has led to little but fruitlessly-revolving engines, emitting poisonous fumes, amid a chaotic congestion of traffic in streets that were never planned to take it—to solid blocks of stationary or crawling vehicles which the pedestrian can easily overtake. And this is no doubt the esoteric meaning behind Alice's protest to the Red Queen :

> " Now! Now " cried the Queen. " Faster! Faster! " . . .
> Alice looked round her in great suprise. " Why, I do believe we've been under this tree the whole time!
> Everything's just as it was."
>
> " Of course it is," said the Queen ; " what would you have it ? "
> " Well, in *our* country " said Alice, " you'd generally get to somewhere else—if you ran very fast for a long time." " A slow sort of country! " said the Queen. " Now *here*, you see, it takes all the running you can do to keep in the same place."

In modern urban areas the race is no longer to Phaethon but to the Troglodyte, who is not ashamed to dive into the earth and seek his destination through long, dark and narrow tunnels, while the children of light wait in frustration, beset on all sides with giants of captive horse-power, bound and impotent like themselves. All this Wagner foresaw, when he gave to Fasolt and Fafner, the earth-dwelling giants, their limping, halting *leit-motif*—a musical theme slow moving, ponderous and rough ; while the Niebelungs, the dwarves who dwell beneath the surface, are identified by their rapid anvil-motive—a triplet-phrase portraying them, in feverish activity, forging ahead, past every obstacle, deep down below.

A good deal of the trouble, of course, may be attributed to the impatience of youth to get going to nowhere in particular, and to get there as fast as possible, so that they can hurry back again to where they started. This at any rate appears to be the chief object of a good many of the smaller and noisier vehicles, and so far as can be seen they are reasonably successful in their aim. Viewed in this light the Spanish impetuosity that spurred the young Aguilar to enter the world in untimely haste may be regarded as a protest against the frustrations of slow-moving traffic on congested roads. Nearer home, as another news-item recounts, his gesture of independence has been emulated, in North London, by a two-year old girl. Having left the child, strapped securely in her perambulator, outside her house at Highbury Corner, the mother came out a few minutes later and found that both child and vehicle had disappeared. The alarm was given and a frantic search followed, in which the mother, the police and interested members of the public took part. Anxiety was ended when the searchers found the child sedately walking along the crowded and busy Holloway Road, pushing her perambulator from behind. This is as clear a warning as any two-year old rebel can give that she regards such a method of transport as obsolete and *démodé* ; What, she seems to ask, is the use of a thing on wheels unless you are (as they say in America) " going places " ?

That is precisely the question so many of us ask, as we hasten slowly towards our work across the overcrowded city ; that is the unspoken speculation in the mind of every boy who builds his model railway-circuit; and that, too, is doubtless the problem that troubles Ixion as he flies, bound to his wheel, through space, to no destination at all. A.L.P.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, June 29

LANDLORD AND TENANT BILL, read 2a.

Thursday, July 1

PROTECTION OF ANIMALS (AMENDMENT) BILL, read 3a.
JURIES BILL, read 3a.

HOUSE OF COMMONS

Tuesday, June 29

SLAUGHTERHOUSES BILL, read 3a.

Friday, July 2

BAKING INDUSTRY (HOURS OF WORK) BILL, read 3a.

NOTICES

The next court of general quarter sessions for the borough of Northampton will be held at the Court House, Campbell Square, Northampton, on Friday, July 30, 1954, at 11.0 *a.m.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Change of christian name—Religious persuasion.*

I have read the article at 115 J.P.N. 727. I have received an application for an adoption order in respect of a child who, I am informed, was baptized with the forenames A B in the Catholic Church. The religion of the adopters is Church of England. They wish to give the child the forename of C only and propose to have the child re-baptized in the Church of England. Their desire is not captious, for there are several members of the family with the names A B. The following queries arise :

1. Would the court be within its province in insisting that the child should be named C A B.

2. Is the court concerned that the child's religion should not be altered ? If so what is the authority ? SYNOM.

Answer.

(1) This is a difficult question and rather complicated by the fact there is to be a fresh baptism into a different church. Not without hesitation, we think that in this case the adopters are entitled to have the new christian name in which the child is baptized inserted in the adoption order, without including the former christian names.

(2) No. This is a matter for the parent to deal with when deciding whether or not to consent to the proposed adoption, *see* Adoption Act, 1950, s. 3 (3).

2—Licensing—"*Old beerhouse*" *licence—Powers of licensing justices to refer to compensation authority.*

At a general annual licensing meeting in this area the renewal of the licence of an old beerhouse was put back to the second sessions, the licensing justices stating that they were dissatisfied with the sanitary accommodation.

At the second sessions the solicitor for the brewery company concerned put in a plan showing the improvements to the sanitary arrangements which they were prepared to undertake to make, and explained that the more ambitious improvements which the justices had suggested involved too great expenditure. Evidence was given by the police as to the inadequacy of the existing sanitary accommodation—the police having objected to the renewal of the licence on grounds of the sanitary arrangements and of structural deficiency.

No mention was made by them or by the justices of any structural deficiency, or indeed, of anything but the lavatories.

The bench announced that the plans put forward by the brewery company were not what they required and that on these grounds the licence would be referred to the compensation authority.

The solicitor applying argued that as the licence was an old beerhouse licence the justices could not, in view of s. 14 (3) of the 1953 Licensing Act refuse to renew the licence. The clerk replied that the justices were not refusing to renew but were entitled to refer the licence to the compensation authority.

(*a*) Are the grounds on which an old beerhouse licence may be referred to the compensation authority in any way limited ?

(*b*) Can the justices refer the old beerhouse licence to the compensation authority on these grounds ?—no evidence was given as to structural deficiency except that the lavatory accommodation fell short of what was desired, but even on structural deficiency they do not seem on sure ground.

(*c*) Should the matter be fought before the compensation authority or does *mandamus* lie against the licensing justices ?

(*d*) If the case has to be fought before the compensation authority, what evidence and arguments do you suggest should be put forward to save the licence there ?

(*e*) To what extent is the fact that this is an old beerhouse licence relevant and what difference would there be were the licence either an old on-licence or a post-1904 licence ?

(*f*) One of the justices who heard the application is a local builder; he has himself put in a quotation for doing the work according to the justices' scheme for these lavatories (for which he can be presumed to be largely responsible) ; he was particularly vocal at the second sessions in asking questions of the brewery representative and clearly showed that nothing less than the justices' scheme (for which he had quoted) would do. Can any and, if so, what objection be taken on this account ? None was taken at the time. NAGPA.

Answer.

(*a*) No.

(*b*) Yes. In modern days, inadequate sanitary conveniences is properly regarded as a structural deficiency in the licensed premises. The power to refer the question of renewal is wider than the power to require structural alterations conferred by s. 12 of the Licensing Act, 1953 : a power which must be related to "the part of the premises where intoxicating liquor is sold or consumed."

(*c*) Before the compensation authority at the authority's principal meeting held in accordance with rr. 14—20 of the Licensing Rules, 1910. There seems to be no ground on which *mandamus* will be ordered.

(*d*) Evidence of the brewery company's proposals for improvements : arguments that the proposals advanced will secure that the sanitary conveniences proposed to be installed will be adequate for the particular beerhouse, and after they have been installed, any suggestion that the house is structurally deficient will not be well-founded.

(*e*) Not at all. The "old beerhouse licence" in question is an "old on-licence" by virtue of its being a justices' on-licence granted by way of renewal from time to time of a licence in force on August 15, 1904 (Licensing Act, 1953, s. 14 (1)). If the licence were a post-1904 licence, the licensing justices would have complete discretion to refuse renewal on any ground (subject to appeal to quarter sessions under s. 35 of the Act) and there would be no question of referring renewal to the compensation authority.

(*f*) On the facts given, we think that there is little likelihood of success in an application for *certiorari* on the grounds that the justice in question was biased.

3.—Magistrates—*Jurisdiction and powers—remand under s.* 26 *Magistrates' Courts Act*, 1952—*subsequent proceedings before differently constituted court.*

The provisions of the Magistrates' Courts Act, 1952, s. 98 (7) are stated to apply after the accused has been "convicted" and before he is sentenced.

Do the provisions of s. 98 (7) apply when the accused is remanded under the provisions of s. 26 of the 1952 Act ? In such cases the court has to be satisfied that the offence has been committed by the accused, but does not formally convict him at the time of the remand. J.E.S.

Answer.

Where the remand is under s. 26 (1), without any formal adjudication of conviction, we think that it is not safe for subsequent proceedings to be taken before a differently constituted bench. A particular example is provided if, on the subsequent proceedings, s. 30, *ibid*, is invoked. It appears then that the same court must act throughout, since s. 98 (7) does not in terms apply to the case. We think s. 98 (7) should be interpreted strictly and applied only where there has been a formal conviction followed by a remand under s. 14 (3), *ibid.*

4.—Magistrates—*Practice and procedure—Objection to information taken by defence after close of prosecutions case—Procedure to be followed.*

During the hearing of a summary case before the magistrates' court evidence for the prosecution is heard during which the witnesses for the prosecution are cross-examined by the defending solicitor. The prosecutor then states that his case is closed. At this stage, for the first time during the hearing, the solicitor for the defence raises the point that there is a defect in the information, and that the case should be dismissed on these grounds.

(1) Under these circumstances (after the prosecutor has closed his case) is the prosecutor entitled to ask for the information to be amended there and then, and for the evidence for the prosecution to be re-heard at the same court, or (2) to request the magistrates for an adjournment for the necessary amendment to be made and for the case to be heard at some future date or (3) is it too late at this stage of the proceedings for the information to be amended at all? Has the court power to allow the information to be amended at this stage and under what authority? (4) What is the correct procedure to be adopted by the prosecutor in these circumstances, and upon what authority ? (5) If a police officer is prosecuting a summary case and has laid the information, upon what authority is he entitled to reply to the defence on a point of law ? TEMAM.

Answer.

We assume that the defect is one to which s. 100, Magistrates' Courts Act, 1952, applies. It would be easier to answer the question if the defect were specified. If it is one which would not make a conviction drawn in terms of the information bad on the face of it we incline to the view, based on *Shepherd* v. *H.M. Postmaster-General* (1865) 29 J.P. 166, that the objection should have been taken when the defendant was asked to plead. As it was not, and the defendant has taken his chance of having the information dismissed on its merits, he must be taken to have waived the objection.

If, however, the defect is such that the information must be amended before a valid conviction could be based upon it, then whenever the objection is taken before conviction the prosecutor must be given the opportunity of amending the information. This may mean that the prosecution's evidence has to be given again, either then or at an

adjourned hearing. The authority for allowing the amendment at any stage is the provision in s. 100, *supra*, that no objection shall be allowed for defect in the substance or form of an information. The prosecution should ask leave to amend the information if he agrees that it is defective (*see Meek* v. *Povell* [1952] 1 All E.R. 347; 116 J.P. 116). The informant, be he a police officer or anyone else, is always, by long established practice, entitled to reply to a point of law raised by the defence, and *vice versa*.

5.—Magistrates—*Procedure—Defendant absent—Letter from defendant.*

A case of driving a motor vehicle without due care and attention is pending at this court, the facts of which are as follows :

A complaint is made to the police by the driver of a motor vehicle to the effect that a red motor lorry had been driven without due care and attention, the number of which he gives to the police. The defendant is subsequently seen in London, informed of the reason for the inquiry and the substance of the complaint, and makes a statement to the effect that he has no recollection of any incident connected with his driving on the day in question. In this statement, the defendant neither confirms nor denies that he was driving a motor vehicle on the day or at the place in question. In addition, the police obtained a certificate under s. 41 of the Criminal Justice Act, 1948, in which the defendant admits being the driver of this vehicle on the day and at the place in question.

At the hearing of this case, the defendant does not attend court and writes a letter to the effect that he was driving on the particular day and pleads " not guilty." The evidence given on behalf of the prosecution consists of the original complaint and the evidence of the statement made by the defendant in London to the police, but the person making the complaint was unable to give the number of the vehicle which he had apparently forgotten. The prosecution also failed to present to the court the statement obtained by virtue of the certificate under s. 41 of the Criminal Justice Act, 1948, and the evidence of the prosecution now rests on the evidence of the complainant who states that the vehicle was a red lorry, of another person as to the incident with the lorry, and the defendant's statement to the police.

I would appreciate your advice as to whether the defendant's statement that he has no recollection of any incident connected with his driving on that day is sufficient to draw the inference that he was the driver of this particular vehicle at the place and on the day in question.

In addition, could the letter from the defendant (which has not been produced in evidence) be used for the purpose of confirming that he was the driver of the vehicle on that day.

I may add that it appears to me that the prosecution, having failed to produce the certificate under s. 41 of the Criminal Justice Act, 1948, cannot ask for the letter received from the defendant to be read to the court unless and until the magistrates have found the case proved, as it has not been produced in evidence. JAMNES.

Answer.

The case illustrates the desirability of refusing to hear in the absence of the defendant a summons of this nature in the circumstances outlined.

We do not consider that it can be inferred from the defendant's statement to the police that he admits driving the lorry in question at the time and place of the alleged incident.

His letter cannot be taken into consideration at all.

6.—United States of America (Visiting Forces) Act, 1942—*Wife of serving member—Proof of validity of certificate under s.* 2 (2).

S, a coloured woman, is the wife of a serving member of the U.S. Forces stationed in this district, living with her husband at a caravan site occupied by a number of Americans. She appeared in this court on summonses alleging larceny and assault occasioning actual bodily harm to the wife of another serving member of the U.S. Forces. At that hearing she produced a certificate under s. 2 (2) of the above-mentioned Act, stating that she was subject to the military law of the U.S.A. (some doubt has been expressed as to whether or not she is subject to military law, but that question will not arise as the certificate is conclusive on that point). The signature on the certificate purports to be that of the commanding officer of a fighter bomber wing, U.S.A.F., to which wing the husband of the accused is attached. I inquired at the hearing whether the officer signing the certificate had authority to do so, and counsel for the prosecution also raised this question, and contended that this should be inquired into. In the result, the case was adjourned *sine die* to enable the parties concerned to satisfy the court whether or not it had jurisdiction. The prosecution not having restored the case to the list, my justices asked me to make inquiries of the county prosecuting solicitor, and an extract from his letter is annexed hereto. The justices have directed that the case shall be heard again.

Would you be kind enough to give me your assistance on the following questions :

(1) The summonses having been issued and served, is it not for the magistrates' court (and not for the prosecution) to decide whether the the court has jurisdiction to try the case ?

(2) If the court is so to decide, cannot the court require the defendant to prove that the commanding officer signing the certificate was a person having authority to do so under s. 2 (2) of the above-mentioned Act, and how is that to be proved ?

I might add that the accused submits to the requirements as to registration of aliens, and that this requirement has never been questioned. It also happens that the U.S. authorities do not question the right of this court to try Road Traffic Act cases in which wives of U.S.A.F. personnel are concerned as defendants. They seem, however, unwilling that cases of the kind now the subject of discussion be tried by an English court.

Extract from letter from county prosecuting solicitor.

" This matter has been referred to the Director of Public Prosecutions and I am now instructed that the certificate which was submitted to the court appears to be in order. The prosecution are not in possession of any evidence to rebut the presumption that the certificate is in order and in these circumstances the prosecution must accept it. If your magistrates feel that the case should be restored to the list, I shall be pleased to arrange for the prosecution to be legally represented so that the matter may be explained to your magistrates." J. SMITE.

Answer.

(1) The court has to decide the question, but if the prosecutor declines to proceed the court can only ensure that the clerk refers the matter to the Director of Public Prosecutions (*see* Prosecution of Offences Regulations, 1946, reg. 9). The prosecutor here states that the Director has already expressed his opinion on the point.

(2) By s. 2 (4), if the certificate purports to be signed by or on behalf of an authority described as appointed by the Government of the United States of America, for the purposes of s. 2 it is to be deemed to be a certificate issued by or on behalf of an authority so appointed, unless the contrary is proved. If, therefore, the certificate purports to be so signed there is no onus of proof on the defendant.

[This query was answered by letter before the Visiting Forces Act, 1952, was brought into operation. The query and answer must now be read subject to that Act : *see* S.I. 1954, No. 633 and related Orders.]

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*Contd.*)

BOROUGH OF BACUP

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with previous Local Government experience for the appointment of Town Clerk, at a commencing salary of £1,140 per annum, rising by annual increments of £50 to £1,340 per annum. The Recommendations regarding salary and conditions of service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply.

The appointment will be subject to three months' notice on either side and to the provisions of the Local Government Superannuation Acts. The successful candidate will be required to pass a medical examination.

Assistance will be given to the successful candidate in the provision of housing accommodation, if required.

Applications, stating age, experience and qualifications and the names of not more than three persons to whom reference can be made, must reach the undersigned not later than Monday, July 19, 1954. Candidates should state whether they are related to any member or senior officer of the Council, and canvassing in any form will disqualify.

E. HUTCHINSON,
Town Clerk.

Stubbylee Hall,
Bacup.

CITY OF PLYMOUTH

Appointment of Conveyancing Clerk

Town Clerk's Office

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade A.P.T. II (£520 per annum rising by annual increments of £15 to £565 per annum). The appointment is superannuable and the successful applicant will be required to pass a medical examination. Previous experience in a Local Government Office is not essential. Applications, giving details of experience in a solicitor's office and particularly conveyancing work, and particulars of present and previous employment together with the names of two referees, must reach me before Tuesday, July 20.

Dated June 29, 1954.

S. LLOYD JONES,
Town Clerk.

Pounds House,
Peverell,
Plymouth.

BOROUGH OF NEWARK-ON-TRENT

Deputy Town Clerk and Deputy Clerk of the Peace

APPLICATIONS invited for above superannuable appointment. Salary Grades VII to IX (£735 to £960). Housing accommodation available; two months' notice either side.

Applications, including details of experience, with particular reference to Conveyancing and Quarter Sessions work and two testimonials, to me by July 14.

J. H. M. GREAVES,
Town Clerk and Clerk of the Peace.

Municipal Buildings,
Newark-on-Trent.
June 29, 1954.

Amended Advertisement.

COUNTY BOROUGH OF BARROW-IN-FURNESS

Appointment of Senior Assistant Solicitor

APPLICATIONS are invited for the permanent appointment of Senior Assistant Solicitor in the Town Clerk's Department at a salary in accordance with A.P.T. Grade X (£920 rising to £1,050).

Forms of application and conditions of appointment obtainable from the undersigned, to be returned not later than Wednesday, July 14, 1954.

LAWRENCE ALLEN,
Town Clerk.

Town Hall,
Barrow-in-Furness.

Amended Advertisement

COUNTY BOROUGH OF WOLVERHAMPTON

Appointment of Third Assistant Solicitor

APPLICATIONS are invited for the above appointment on Salary Grade A.P.T. VII (£735–£810). Appointment is subject to National Conditions of Service, to Superannuation Acts, and to Medical Examination, and is determinable by one month's notice. March and June Finalists will be considered.

Applications, stating age, experience and educational qualifications, and giving names of two referees, to reach me by Monday, July 19.

A. G. DAWTRY,
Town Clerk.

Town Hall,
Wolverhampton.

CITY OF CHICHESTER

Deputy Town Clerk

APPLICATIONS are invited from solicitors with local government experience for the above appointment at a salary of £840—£960 (Grade A.P.T. IX).

Housing accommodation cannot be offered.

Further particulars may be obtained from the undersigned, to whom applications must be delivered by July 30, 1954.

ERIC BANKS,
Town Clerk.

Greyfriars,
North Street,
Chichester.

BOROUGH OF DARTFORD

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with wide Local Government experience, for the appointment of Deputy Town Clerk.

The salary will be in accordance with Scale A of the recommendations of the Joint Negotiating Committee for Chief Officers of Local Authorities, commencing at £1,025 per annum rising, subject to satisfactory service, by annual increments of £25, to a maximum of £1,075 per annum.

The person appointed will not be permitted to engage in private practice. The appointment will be subject to the Local Government Superannuation Acts, 1937 and 1953, and the successful candidate will be required to pass a medical examination.

The Council will provide housing accommodation if required.

Applications, endorsed "Deputy Town Clerk," stating age, date of admission, and experience, and accompanied by copies of three recent testimonials, must be sent to reach me not later than July 23, 1954.

THOMAS ARMSTRONG,
Town Clerk.

Council Offices,
Dartford.

CITY OF LEICESTER

ASSISTANT SOLICITOR required at salary of £735 to £810 per annum.

Applications, with copies of two recent testimonials and endorsed "Assistant Solicitor," to be sent not later than July 28, 1954, to the Town Clerk, Town Hall, Leicester.

BOROUGH OF WISBECH

LEGAL CLERK required. Salary Clerical Division, but re-grading under consideration. Experience conveyancing and county court practice essential. Housing accommodation. Two referees. Closing date August 3, 1954. Further particulars from undersigned.

N. E. DEWICK,
Town Clerk.

Town Hall,
Wisbech.

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